

Message Text

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INFO OCT-01 ARA-10 EUR-12 EA-09 IO-13 NEA-10 AF-06 ISO-00

SSO-00 NSCE-00 INRE-00 USIE-00 CIAE-00 DODE-00 PM-04

H-02 INR-07 L-03 NSAE-00 NSC-05 PA-02 PRS-01 SP-02

SS-15 SIG-02 CG-00 COME-00 DLOS-04 DOTE-00 EB-07

TRSE-00 SAL-01 FMC-02 /124 R

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FM SECSTATE WASHDC

TO AMEMBASSY OTTAWA IMMEDIATE

AMEMBASSY REYKJAVIK IMMEDIATE

AMEMBASSY OSLO IMMEDIATE

AMEMBASSY COPENHAGEN IMMEDIATE

AMEMBASSY LONDON IMMEDIATE

AMEMBASSY PARIS IMMEDIATE

AMEMBASSY BONN IMMEDIATE

AMEMBASSY BERLIN IMMEDIATE

AMEMBASSY WARSAW IMMEDIATE

AMEMBASSY MOSCOW IMMEDIATE

AMEMBASSY MADRID IMMEDIATE

AMEMBASSY SOFIA IMMEDIATE

AMEMBASSY BUCHAREST IMMEDIATE

AMEMBASSY ROME IMMEDIATE

AMEMBASSY TOKYO IMMEDIATE

AMEMBASSY BERN IMMEDIATE

AMEMBASSY DUBLIN IMMEDIATE

AMEMBASSY ATHENS IMMEDIATE

AMEMBASSY MEXICO IMMEDIATE

AMEMBASSY LIMA IMMEDIATE

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AMEMBASSY QUITO IMMEDIATE

AMEMBASSY SAN JOSE IMMEDIATE
AMEMBASSY PANAMA IMMEDIATE
AMEMBASSY MANAGUA IMMEDIATE
AMEMBASSY BOGOTA IMMEDIATE
AMEMBASSY SAN SALVADOR IMMEDIATE
AMEMBASSY BRASILIA IMMEDIATE
AMCONSUL CASABLANCA IMMEDIATE
AMEMBASSY LISBON IMMEDIATE
AMEMBASSY SEOUL IMMEDIATE
AMEMBASSY TAIPEI IMMEDIATE
INFO ALL DIPLOMATIC POSTS PRIORITY

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BERN FOR CUBA, USUN FOR RIDGWAY

E.O. 11652: N/A

TAGS: EFIS, PLOS
SUBJECT: U.S. EXTENDS EXCLUSIVE FISHERIES JURISDICTION
TO 200 MILES

1. ON APRIL 13 THE PRESIDENT SIGNED H.R. 200, THE
FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976, EXTEND-
ING THE EXCLUSIVE FISHERIES JURISDICTION OF THE UNITED
STATES TO 200 MILES. ACT HAS FAR-REACHING IMPLICATIONS
FOR ALL NATIONS WHICH FISH IN WATERS OFF U.S. COASTS.

2. COPES OF ACT POUCHED TO EMBASSIES IN COUNTRIES WITH
WHICH U.S. HAS FISHERIES RELATIONSHIPS. AVAILABLE TO
OTHER POSTS ON REQUEST. DEPT. WILL FORMALLY TRANSMIT
COPY TO RELEVANT EMBASSIES IN WASHINGTON. CAPSULIZED
DESCRIPTION MOST IMPORTANT PROVISIONS OF ACT FOLLOWS.
ANALYSIS GEARED TO SPECIFIC COUNTRIES WILL FOLLOW
SEPTELS.

3. SUMMARY DESCRIPTION OF ACT.

A. THE ACT ESTABLISHES A ZONE CONTIGUOUS TO THE
TERRITORIAL SEA OUT TO 200 MILES IN WHICH THE UNITED
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STATES ASSUMES EXCLUSIVE FISHERIES MANAGEMENT AUTHORITY,
EFFECTIVE MARCH 1, 1977, AND ASSERTS SUCH AUTHORITY
OVER ANADROMOUS SPECIES (E.G. SALMON) OF U.S. ORIGIN

AND CONTINENTAL SELF FISHERIES RESOURCES SEAWARD OF
THE ZONE. THIS AUTHORITY DOES NOT EXTEND TO
HIGHLY MIGRATORY SPECIES (TUNA).

B. FOREIGN FISHING MAY BE PERMITTED AFTER MARCH 1, 1977 TO THE EXTENT OF ANY SURPLUS OVER THE HARVESTING CAPACITY OF U.S. FISHERMEN AND UNDER THE OPTIMUM YIELD FROM EACH FISHERY. THAT IS, THE SECRETARY OF COMMERCE AND REGIONAL COUNCILS ESTABLISHED BY THE ACT WILL SET THE TOTAL ALLOWABLE CATCH FOR EACH FISHERY AND DETERMINE WHAT PORTION OF THIS TOTAL WILL BE HARVESTED BY AMERICAN FISHERMEN. THE REMAINING SURPLUS WILL BE ALLOCATED AMONG FOREIGN FISHERMEN BY THE SECRETARY OF STATE, SUBJECT TO RESTRICTIONS SET BY THE SECRETARY OF COMMERCE. IN ALLOCATING THE SURPLUS TO FOREIGN FISHERMEN, THE SECRETARY OF STATE SHALL TAKE INTO CONSIDERATION TRADITIONAL FISHING ACTIVITY, WHETHER SUCH NATIONS HAVE COOPERATED IN MAKING SUBSTANTIAL CONTRIBUTIONS TO FISHERIES RESEARCH, COOPERATED IN ENFORCEMENT WITH RESPECT TO THE CONSERVATION AND MANAGEMENT OF FISHERY RESOURCES, AND SUCH OTHER MATTERS AS DEEMED APPROPRIATE. HOWEVER, FOREIGN FISHING IN THE ZONE OR FOR ANADROMOUS OR CONTINENTAL SHELF SPECIES IN OR BEYOND THE ZONE IS PROHIBITED AFTER MARCH 1, 1977 UNLESS CERTAIN CONDITIONS ARE MET, DESCRIBED BELOW.

C. IN THE CASE OF EXISTING BILATERAL AGREEMENTS THAT REMAIN IN FORCE ON MARCH 1, 1977 (WITH CANADA, SOUTH KOREA AND THE ATLANTIC COAST AGREEMENT WITH THE SOVIET UNION), THE PARTIES TO THE AGREEMENTS MUST OBTAIN QUOTE REGISTRATION PERMITS UNQUOTE FOR EACH VESSEL FROM THE SECRETARY OF STATE IN ORDER TO VERIFY THAT THEIR VESSELS ARE AUTHORIZED TO FISH. IN THE CASE OF CONTINUING MULTILATERAL TREATIES, QUOTE REGISTRATION PERMITS UNQUOTE WILL BE SIMILARLY REQUIRED. (THIS WILL INVOLVE SOME 18 NATIONS, INCLUDING JAPAN, CANADA, UNCLASSIFIED

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THE USSR, POLAND, THE FRG, SPAIN AND OTHERS.) PERMISSIVE AUTHORITY IS ALSO GRANTED TO THE SECRETARY OF STATE TO LEVY REASONABLE FEES TO RECOVER ADMINISTRATIVE COSTS.

D. IN THE CASE OF AGREEMENTS THAT EXPIRE BEFORE MARCH 1, 1977 (E.G. PACIFIC COAST AGREEMENTS WITH JAPAN, USSR AND POLAND), NO EXTENSION IS PERMITTED AND THE NATIONS INVOLVED MUST CONCLUDE NEW QUOTE GOVERNING INTERNATIONAL FISHERIES AGREEMENTS UNQUOTE THAT RECOGNIZE OUR JURISDICTION AS SET FORTH IN THE ACT, AND OBTAIN PERMITS FOR EACH VESSEL BY WHICH THE SECRETARY OF COMMERCE

UNILATERALLY SETS THE TERMS AND CONDITIONS UNDER WHICH FISHING IS AUTHORIZED. THE QUOTE GOVERNING INTERNATIONAL FISHERIES AGREEMENTS UNQUOTE MUST BE IN

FORCE ON MARCH 1, 1977. HOWEVER, THE ACT REQUIRES THAT THEY LIE BEFORE CONGRESS FOR 60 DAYS WHILE CONGRESS IS IN SESSION BEFORE THEY ENTER INTO FORCE.

E. WITH RESPECT TO THE PERMITS ISSUED BY THE SECRETARY OF COMMERCE, OPPORTUNITY IS PROVIDED FOR COMMENTS BY INTERESTED PARTIES WITH RESPECT TO THESE PERMITS. THE PROCEDURE IS EXTENSIVE AND DETAILED. ESSENTIALLY, THE SECRETARY OF STATE IS REQUIRED TO RECEIVE APPLICATIONS FROM FOREIGN COUNTRIES AND PUBLISH THEM IN THE FEDERAL REGISTER. REGIONAL COUNCILS ESTABLISHED UNDER THE ACT ARE ALLOWED 45 DAYS IN WHICH TO COMMENT ON THE APPLICATIONS AND THE SECRETARY OF COMMERCE, AFTER APPROPRIATE REVIEW AND AFTER CONSULTATION WITH THE SECRETARY OF STATE AND THE SECRETARY OF THE DEPARTMENT IN WHICH THE COAST GUARD IS LOCATED, SHALL APPROVE THE APPLICATION AND ESTABLISH THE SPECIFIC CONDITIONS AND RESTRICTIONS WHICH SHALL BE APPLICABLE TO EACH PERMIT. IN ADDITION, THE ACT PROVIDES FOR THE PAYMENT OF FEES BY FOREIGN VESSELS ISSUED PERMITS TO COVER THE COST OF RESEARCH, MANAGEMENT AND ADMINISTRATION OF THE LAW.

F. ANY FOREIGN FISHING VESSEL THAT DOES NOT HAVE ON BOARD A VALID PERMIT ISSUED UNDER AN EXISTING AGREEMENT OR A NEW GOVERNING AGREEMENT WILL BE SEIZED AND PRO-UNCLASSIFIED

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SECURED. IN ADDITION FOREIGN OPERATORS AND VESSELS ARE SUBJECT TO ARREST, SEIZURES, FINES AND IMPRISONMENT FOR SUCH UNLAWFUL ACTS AS REFUSAL TO PERMIT U.S. ENFORCEMENT OFFICERS TO BOARD AND INSPECT THEIR VESSELS, FISHING WITHOUT A VALID PERMIT OR IN VIOLATION OF THE CONDITIONS STIPULATED IN THE PERMIT AND RESISTING ARREST. CRIMINAL OFFENSES ARE PUNISHABLE BY A FINE NOT MORE THAN 50,000 DOLLARS OR IMPRISONMENT OR BOTH, OR IN THE CASE WHERE A PERSON FORCIBLY RESISTS ARREST AND EITHER INJURES OR PLACES THE ARRESTING OFFICER IN DANGER OF PHYSICAL HARM, NOT MORE THAN 100,000 DOLLARS OR 1 YEAR IN PRISON, OR BOTH. IN ADDITION, CIVIL PENALTIES MAY BE IMPOSED. THEY INCLUDE FORFEITURE OF CATCH, GEAR, CARGO AND VESSEL.

G. PROVISION IS ALSO MADE WITH RESPECT TO THE U.S. DISTANT WATER FISHERIES, I.E., TUNA AND SHRIMP. SHOULD THE SECRETARY OF STATE BE UNABLE WITHIN A REASONABLE PERIOD OF TIME TO CONCLUDE AN INTERNATIONAL FISHERY

AGREEMENT ALLOWING U.S. FISHING VESSELS ACCESS TO FISHERIES OVER WHICH OTHER NATIONS ASSERT EXCLUSIVE FISHERIES

MANAGEMENT AUTHORITY RECOGNIZED BY THE UNITED STATES BECAUSE THAT NATION, AMONG OTHER THINGS, :1) REFUSES TO COMMENCE NEGOTIATIONS, (2) FAILS TO NEGOTIATE IN GOOD FAITH, (3) DENIES U.S. FISHERMEN THE OPPORTUNITY TO FISH FOR HIGHLY MIGRATORY SPECIES IN ACCORDANCE WITH INTERNATIONAL AGREEMENT, OR SEIZES U.S. VESSELS UNDER CERTAIN CONDITIONS, THE ACT PROVIDES FOR THE IMPOSITION OF IMPORT EMBARGOES ON FISH PRODUCTS FOR THE NATION INVOLVED. COMPENSATION TO U.S. FISHERMEN UNDER FISHERMEN'S PROTECTIVE ACT IS EXPANDED.

H. THE ACT ALSO AUTHORIZES THE SECRETARY OF STATE TO SEEK AGREEMENT WITH NEIGHBORING COUNTRIES ON THE BOUNDARIES OF THE CONSERVATION ZONE OF THE UNITED STATES.

I. FINALLY, THE ACT STATES THAT IF THE UNITED STATES RATIFIES A COMPREHENSIVE LAW OF THE SEA TREATY, THE SECRETARY OF COMMERCE, AFTER CONSULTATION WITH THE SECRETARY OF STATE, MAY PROMULGATE ANY SUCH CHANGES
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AS ARE NECESSARY TO CONFORM THE ADMINISTRATIVE REGULATIONS TO THE REQUIREMENTS OF THE TREATY.

4. DEPARTMENT IS STUDYING IMPLICATIONS OF ACT ON EXISTING MULTILATERAL AND BILATERAL FISHERIES ARRANGEMENTS AND POSSIBLE COURSES OF ACTION TO FOLLOW IN IMPLEMENTATION OF LAW. WE EXPECT TO COMPLETE REVIEW BY EARLY MAY. POLICY GUIDANCE WILL BE ISSUED AT THAT TIME. KISSINGER

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Margaret P. Grafeld
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04 MAY 2006

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